

# INTRODUCTION TO INVOLUNTARY TREATMENT LAWS IN VERMONT

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# MENTAL ILLNESS

18 V.S.A. 7101 (14)

- A substantial disorder of **thought, mood, perception, orientation, or memory**, any of which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life, **but shall not include mental retardation**.

# DANGER TO OTHERS

18 V.S.A.7101 (17) (A)

- Inflict or attempt to inflict bodily harm on another
- Threats or actions placing others in reasonable fear of physical harm to themselves; or
- Actions or inactions presenting a danger to persons in his/her care

# DANGER TO SELF

18 V.S.A. 7101 (17) (B)

- Threatened or attempted suicide or serious bodily harm.
- Behavior in such a manner as to indicate that patient is unable, without supervision and the assistance of others, to satisfy the need to nourishment, personal or medical care, shelter, or self protection and safety, so that it is probable that death, substantial physical bodily injury, serious mental deterioration or serious physical debilitation or disease will ensue unless adequate treatment is afforded.

# A PERSON IN NEED OF TREATMENT

18 V.S.A. 7101 (17)

- A person who is suffering from mental illness and, as a result of that mental illness, his capacity to exercise self control, judgment, or discretion in the conduct of his affairs and social relationships is so lessened that he poses a **danger of harm to himself or others**.



# EMERGENCY EXAM

18 V.S.A. 7504; 7508

- Determines if person is in need of treatment
- Psychiatrist and QMHP are applicants
- Must meet **ALL** criteria:
  - Mental illness (not MR)
  - Danger to self or others
  - No less restrictive alternatives
- Temporary custody and transportation to hospital
- Certifying physician evaluates within 1 working day
- Consumer released after 72 hours, unless he/she consents to voluntary treatment or AIT filed

# WARRANT

18 V.S.A. 7505

- Meets **ALL** criteria
- MD unavailable without serious or unreasonable delay
- Police or QMHP are applicants
- Based on direct observation
- A **JUDGE** must authorize
- VSH consultation and notification

# NON-EMERGENCY EXAM

18 V.S.A. 7612 et. Seq.

- Application for Involuntary Treatment (AIT)
- Person remains in the community while AIT is pending
- “Interested party” and psychiatrist are applicants
- Filed in Family Court
- Hearing required prior to hospitalization or ONH
- Can take 4-6 weeks



# COURT ORDERED INPATIENT PSYCHIATRIC EVALUATION

13 V.S.A. 4822

- Legal charges pending
- Questions raised:
  - Sanity
  - Competency
  - Safety
- VSH/Designated Forensic Hospital Admission

# APPLICATION FOR INVOLUNTARY TREATMENT

18 V.S.A. 7612, et. Seq.

- APPLICATION FOR INVOLUNTARY TREATMENT  
“AIT” filed in family court
- Consumer entitled to independent psychiatric examination and attorney (MHLP)
- Generally held 30 days from filing
- State must prove, by clear and convincing evidence, that the consumer was in need of treatment at the time of admission or application and is a patient in need of further treatment at the time of the hearing
- Court may issue 90 day order of hospitalization or nonhospitalization

# APPLICATION FOR CONTINUED TREATMENT "ACT"

18 V.S.A. 7620, et. Seq

- If, prior to the expiration of an order of hospitalization or nonhospitalization, the commissioner believes that the consumer continues to require treatment, the state files an ACT in family court
- Consumer entitled to independent psychiatric examination and attorney (MHLP)
- State must prove, by clear and convincing evidence, that the consumer is a "patient in need of further treatment"
- Court may issue order of hospitalization or nonhospitalization for up to one year.

# COMMITMENT ORDERS

- Order of Hospitalization (18 V.S.A. 7617)
  - Initial order is 90 days, can be extended to one year
  - Prior to the conclusion of an order, state can file ACT
  - Can be hospitalized at VSH or designated hospital
- Order of Nonhospitalization “ONH” (18 V.S.A. 7618)
  - Initial order is 90 days, can be extended to one year
  - Also known as outpatient commitment
  - Requires person to act in accordance with prescribed treatment ( housing, keep appts, medications, etc.)



# REVOCATION OF ONH

18 V.S.A. 7621

- If at any time during the period of nonhospitalization it comes to the attention of the court, that the person is not complying with the order, or that the alternative treatment has not been adequate to meet the patient's treatment needs, the court may, after proper hearing:
- (1) Consider other treatments not involving hospitalization, modify its original order, and direct the patient to undergo another program of alternative treatment for an indeterminate period, up to the expiration date of the original order; or
- (2) Order that the patient be hospitalized, up to the expiration date of the original order.



# PETITION FOR INVOLUNTARY MEDICATION "ACT 114"

18 V.S.A 7624

- Commissioner may file petition if person is refusing medication and:
  - Is on an order of hospitalization
  - Has previously been on a hospitalization order and is now on an order of nonhospitalization, or
  - has been committed to the custody of the commissioner of corrections as a convicted felon

# ACT 114 HEARING

18 V.S.A. 7625

- Held within 7 days of filing
- State has burden of proof by clear and convincing evidence
- Consumer entitled to independent psychiatric examination and attorney (MHLP)

# ACT 114 ORDER

18 V.S.A. 7627

- Competency: court determines whether or not the person is competent to make a decision regarding the proposed treatment
  - the court shall consider whether the person is able to make a decision and appreciate the consequences of that decision
- If the person is competent, then Court denies petition
- If the decision regarding the proposed treatment is within the scope of a valid, duly executed advance directive, the court will deny the petition.

## ACT 114 ORDER cont.

- If the Court finds that the person is not competent, and involuntary medication is supported by the following factors, in addition to the person's expressed preferences, the court may grant the petition authorizing involuntary medication.



# ACT 114 FACTORS

(18 V.S.A. 7627)

- (1) The person's religious convictions and whether they contribute to the person's refusal to accept medication.
- (2) The impact of receiving medication or not receiving medication on the person's relationship with his or her family or household members whose opinion the court finds relevant and credible based on the nature of the relationship.
- (3) The likelihood and severity of possible adverse side effects from the proposed medication.
- (4) The risks and benefits of the proposed medication and its effect on:
  - (A) the person's prognosis; and
  - (B) the person's health and safety, including any pregnancy.
- (5) The various treatment alternatives available, which may or may not include medication.



# ACT 114 ORDER

(18 V.S.A. 7627)

- If the person is on an order of hospitalization, the order can last for 90 days, or up to the end of the current order of hospitalization if the court finds that an order is necessary for a longer period of time.

# ACT 114 ORDER-ONH

(18 V.S.A. 7627)

- If the court finds that, without an order for involuntary medication there is a substantial probability that the person would continue to refuse medication and as a result would pose a danger of harm to self or others, the court may order hospitalization of the person for up to 72 hours to administer involuntary medication.
- The court may authorize future 72-hour hospitalizations to administer involuntary medication for 90 days, or for the duration of the ONH if the court finds that a longer order is necessary.

# ACT 114-ONH cont.

- Future administrations of involuntary medication shall occur as follows:
- (1) The treating physician shall execute and file with the commissioner a certification that states all the following:
  - (A) The person has refused medication.
  - (B) The person is not competent to make a decision regarding medication and to appreciate the consequences.
  - (C) The proposed medications, the dosage range, length of administration and method of administration.
  - (D) The substantial probability that in the near future the person will pose a danger of harm to self or others if not hospitalized and involuntarily medicated.

# ACT 114-ONH cont.

- Depending on the type of medication ordered, the commissioner shall provide two to 14-days' notice, as set forth in the initial court order, to the court, the person and the person's attorney.
- The notice shall be given within 24 hours of receipt by the commissioner of the physician's certification and shall state that the person may request an immediate hearing to contest the order.
- The person may be hospitalized in a designated hospital on the date specified in the notice for up to 72 hours in order to administer involuntary medication.